



State Use Programs Association

Turning Disabilities Into Capabilities Through Employment

January 12, 2006

To: COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY
DISABLED 41 CFR Parts 51-2, 51-3, and 51-4

From: Kirk A. Springsted, President, State Use Programs Association (SUPRA)

Re: Nonprofit Agency Governance and Executive Compensation

The State Use Programs Association (SUPRA) is the national organization representing Central Nonprofit Agencies (CNAs) in states operating preferred purchasing programs for people with disabilities (State Use). Our members' programs represent over 1,200 Community Rehabilitation Programs (CRPs), many of which are also JWOD producing CRPs. These CRPs employ 43,472 people with disabilities through state and municipal government contracts. State Use Programs have the same general mission as the JWOD program, i.e. the training and employment of people with disabilities through government contracts. For this reason, the rules that govern the JWOD program often influence the rules by which State Use programs operate under state law.

SUPRA appreciates the Committee's concern for the integrity of the JWOD Program and its support for the continued growth of appropriate skills training, employment opportunities, and career advancement for people with disabilities. SUPRA fully supports the Committee's stated interest in maintaining the integrity of the JWOD program through governance standards that are "common practice in nonprofit and business communities." We agree that adherence to

standards helps promote a high level of public support for JWOD's employment mission, and that such support is integral to the perceived integrity of the JWOD program.

GOVERNANCE

Nonprofit community rehabilitation programs (CRPs) are highly regulated and are audited by local, state, and federal government agencies as well as private funders, each with varying sets of rules and guidelines for governance. SUPRA believes that the Committee should focus on established best practices for governance, e.g., the IRS, Sarbanes-Oxley, or existing state and local governmental regulation, as well as the forthcoming Grassley recommendations.

The Committee suggests fourteen "criteria and tests" as the benchmarks of good nonprofit agencies. To the extent that these criteria reflect established core standards, they make sense. These items address issues with the governing body, conflicts of interest, and to some extent the transparency of the nonprofit to the public. SUPRA agrees that the items the Committee enumerates are reasonable for evaluating the governance practices which they are intended to address. We would suggest the Committee consider adding elements relating to "Mission and Program," "Public Affairs and Public Policy," and "Human Resources." How a nonprofit defines and works towards its purpose, how it participates in the public affairs of the community it serves, and how it establishes relationships with its staff, volunteers, and those it serves are as important as any of the other items in establishing public confidence in the integrity of the nonprofit.

Establishing a reliable mechanism to verify evidence of good governance practices is a difficult task. We do recommend that accreditation by state or national organizations be deemed

acceptable evidence of good governance. In making this recommendation, we would encourage the Committee to make its list of acceptable accreditation bodies as expansive and flexible as possible and to include licensing or funding entities. We would recommend that CRPs provide initial documentation of compliance followed by annual affidavits affirming compliance.

We do recommend flexibility to accommodate budget size and local and regional differences when considering the appropriateness of an organization's governance. Small organizations and those located away from urban centers may not have easy access to a large pool of capable board members or those with the requisite fiscal skills. Not allowing the workers of such an organization the opportunity of working on a JWOD contract because of factors outside the organization's control would be an unfair consequence of the organization's size or location.

In our view, whatever rules the Committee proposes should be applied evenly to all JWOD participating agencies, but the Committee should make its rules broad enough and flexible enough to include nonprofit organizations that are government agencies. The rules should specifically address that circumstance.

EXECUTIVE COMPENSATION

Executive compensation is an issue of perceived fairness, honesty, and integrity. It is also highly complex when balanced with the need for organizations to put highly skilled personnel into executive positions to manage both a social and financial bottom line. It is our recommendation that, if the Committee is determined to establish pay scale measures, it should look for suitable indices or formulae that take into consideration the size, mission, and overall program scope of

the qualified nonprofit agency as well as the specific market place in which it operates. The Committee should use local and national published industry survey results to determine if a particular compensation level is within the normative range. In making this recommendation, SUPRA holds that there is no direct linkage between fair market price and executive compensation. In our experience the administrative charge, which is already capped by JWOD's contracts, is determined as a percent of the contract's direct cost. This leaves compensation and other administration expense decisions to the CRP as part of their overall response to their business operations and the market forces that drive executive compensation levels.

Any rules that the Committee adopts must be fluid and monitored regularly to keep pace with the industry in order to attract or keep organizations as participants in the JWOD program. It is our hope that the Committee will routinely evaluate how effectively its rules foster work opportunities for people with disabilities.

Thank you for the opportunity to provide our perspective on the issues of governance and executive compensation.